IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

CWP No. 432 of 2000.

Judgment reserved on 14th May, 2007

Date of Decision: **21st May, 2007**.

Sh. Megh Raj .....Petitioner.

Versus

Union of India and others. ……Respondents.

Coram

The Hon'ble Mr. Justice Dev Darshan Sud,J.
The Hon'ble Mr. Justice , Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. Ajay Sharma, Advocate.

For the Respondents: None.

Dev Darshan Sud, J.

This writ petition has been filed by the petitioner challenging the rejection of his appeal by the Chief of Army Staff against the orders of Summary Court Martial whereby the petitioner was tried for wilful disobedience of the orders issued to him while on active duty. The petitioner has been reduced to the rank of Naik. Reply has been filed by the respondents giving the details of the Summary Court Martial proceedings.

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[1] Whether Reporters of Local Papers may be allowed to see the judgment?

I have heard learned counsel for the parties and have gone through the record. Admittedly, all the proceedings in this case, i.e. the issuance of the charge sheet, the reply and the Summary Court Martial were conducted at Jammu, the alleged act of misconduct/disobedience was also committed outside the territorial jurisdiction of this Court. The appeal was filed before the Chief of Army Staff at New Delhi and the appellate order has also been passed at New Delhi. The petitioner has submitted that the order of rejection of appeal and punishment were received by him in Himachal Pradesh which would vest jurisdiction in this Court to try the case. The Unit of the petitioner was posted at Jammu and Kashmir where the proceedings took place and where the alleged act resulting in the Summary Court Martial of the petitioner was alleged to have committed by him.

I have held in **CWP No. 828 of 2001** titled **Guru Dutt** Vs. **Union of India and others** that communication of an order in the State of H.P. would not constitute a fact which would vest territorial jurisdiction in this Court under Article 226 of the Constitution of India. In the circumstances, this writ petition is dismissed.

I have not made any reference to the submissions made by the learned counsel appearing for the petitioner on the merits of the case as I have held that this court has not jurisdiction to try the matter. It will be open to the petitioner to take such proceedings in a Court of competent jurisdiction as may be open to him in law. There shall be no order as to costs.

(Dev Darshan Sud),
Judge.

21st May, 2007 (cm)